

**From:** Mark Lavi  
**To:** Microsoft ATR  
**Date:** 1/26/02 7:55am  
**Subject:** My comments on the DOJ-MSFT remedy

I have a long standing background as a consumer of personal computers and online services since the early 80's. Since the early 90's I have developed a career based on Internet media and Internet technology development working for the first commercial national ISP, News Corporation, and Netscape Communications.

I feel my comments have a historical and technical perspective with an understanding of the issues and business ramifications to the technology markets which Microsoft asserts terrible influence over already.

Firstly: the DOJ case never properly defined terms as any computer scientist would do so to separate the "Operating System" market from the "Application Software" market. Since an operating system's purpose is merely to provide access to the hardware of the computer, it is a low level layer which is required for software applications to work - but clearly separate, independent, and crucial to all software.

Because Windows, in all of it's varieties, is an operating system and it's market is for anyone with computer hardware - it's primary distribution is with computer manufacturers (OEM's like Dell, Compaq, HP, Gateway, Apple, etc.) It has been proven that Microsoft's aggressive business contracts have stamped out the competition many years ago, but today prevents any competition for operating systems.

Since Internet Explorer is a software application, it cannot be an operating system. If this were not the case, then Internet Explorer's primary competition, Netscape Navigator software, would logically also be called an operating system. This most certainly is not the case. Therefore Internet Explorer is not an operating system, Windows distributes Internet Explorer, and this is tying two markets together.

The woeful part is that by bundling Internet Explorer into Windows, and now many other software packages: NetMeeting (video conferencing software), Backup (media replication), Defragment and Compression (disk utility), Windows Media Player (video and audio media player), Outlook Express (email software), and Internet Explorer (web browser) would name a few of the bundled software packages and industries threatened by Microsoft's self-serving distribution. Online Services and Fax and Modem software also are industries bundled into Windows.

Microsoft advances it's own technical agendas with these products: making them standards by sheer distribution alone. And Microsoft wields many of these standards in a proprietary manner, preventing competition for these software packages.

Worse still: the Internet media (web sites) that these software packages promote also are Microsoft owned properties. Internet Explorer promotes the Microsoft Network (msn), Outlook Express promotes HotMail (a web email system). The new Windows XP promotes photo processing services!

How can an operating system imply software and web sites? Windows is not Hotmail, but many people will likely use Hotmail because they got it with Windows and they may not even know that there IS competition on the Internet because Microsoft doesn't provide a choice.

The remedy should be the break up of Microsoft into three business units: Operating System, Applications, and Internet/network services.

Microsoft will negotiate with anyone to bundle all three of these business units when they should only promote one at a time. They promote all three when they have no business to do so, and they prevent competition by doing so. They bully companies and partners with threats that they will compete if they do not concede to whatever Microsoft wants (equity, technology licensing, distribution, etc).

This behavior happens today, still. Every business contract and deal should be broken apart into three separate business units to prevent tying these separate areas.

Microsoft tries to blend the three technologies (operating system, software application, Internet service) together in every product offering now. Windows XP is the premier demonstration of this. Furthermore, it has left out a key Internet technology by Sun Microsystems called Java - which threatens the Windows operating system. Java is a key feature of Internet Explorer: it allowed it to compete with Netscape Navigator over the past years. Now that Netscape Navigator doesn't control much of the market, Microsoft will not carry Java because they promote their own proprietary technologies and prevent competition for Internet software development.

The technology delivery of this blend of three separate markets (OS, software, Internet) is now one business proposition to the entire market, no choices allowed or even acknowledged by Microsoft. This monopoly is killing the diversity of the economy and technology sector.

Lastly: Microsoft must not donate software or old computer hardware as part of the remedy because this is also self-serving to the benefit of Microsoft. The remedy should provide damages and money to the states so that they may CHOOSE the best use of the settlement (perhaps non-Microsoft solutions!)

By allowing Microsoft to provide its own software (which costs Microsoft almost nothing to produce and distribute) as value for the

settlement, the government is distributing Microsoft's monopoly further without choice. By allowing Microsoft to provide old hardware computers, it distributes obsolete hardware and represents a very poor value when compared to the monetary investment that should be made in today's current hardware which represents the most performance and value in the history of the computer industry.

I am sorry I have not organized my thoughts better, but I do not approve of the horrible outcome that is being granted to Microsoft's benefit and the detriment of the computer industry. It will darken the entire future of our world and I must speak out.

Feel free to contact me for clarification or help,

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--Mark

o Public key attachment for secure e-mail enclosed.

/\ My opinions are my own, but you may share them.

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